

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
CLERK'S OFFICE

FAZAL RAHEMAN  
Petitioner

v

DAVID WINN  
(Warden, FMC, Devens, Ayer, MA)  
Respondent

2005 APR 13 P 3:08  
No. CA No 05-40039-DPW  
U.S. DISTRICT COURT  
DISTRICT OF MASS

**Motion For Judgment On Pleadings**

On March 9, 2005, this Honorable Court ordered petitioner to pay the filing fee within 35 days, and ordered respondent to respond within 21 days. Defendant has paid the filing fee. Respondent has not responded within the time granted. Therefore according to habeas practice "[t]he court shall summarily hear and determine the facts, and dispose of the matter as law and justice require". 28 USC 2243. The issues before the Court are pure questions of law based on well-settled legal principles as pleaded in the Petition. Law and justice require that petitioner's prayer for relief be granted. Pursuant to the Rules of Civil Procedure<sup>1</sup> the petitioner therefore moves for judgment on pleadings.

The instant Motion is also driven by an urgent situation resulting from the denial of petitioner's fundamental right of access to court. Supreme Judicial Court of Massachusetts has scheduled Pro Se petitioner's appeal in a related case for oral argument, initially on April 6, 2005, but now in May 2005. See Raheman v Raheman, Docket No. SJC- 09207. The SJC case implicates petitioner's current sentence and incarceration. Petitioner's request for access to the said hearing was denied, as

<sup>1</sup> "After the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings". Fed R Civ Proc, Rule 12(c)

BOP has no such policy. Supreme Court has "repeatedly held that prisons are not beyond the reach of the Constitution. - - Like others, prisoners have the constitutional right - - of access to the courts." Hudson v Palmer, 82 L Ed 2d 393, 401 (1984) (citation omitted). The only way his constitutional right of access to court can be guaranteed is by forthwith placement in CCC. As established in the pleadings petitioner's corrected release date will be June 1, 2005.

The petitioner therefore prays for:

- 1) Ordering respondent to re-compute petitioner's date of release incorporating credit for the 59 days of prior confinement in CCC.
- 2) Ordering respondent to effect placement of petitioner to CCC forthwith pursuant to Goldings v Winn, 383 F 3d 25, 30 (1st Cir 2004) and to facilitate his First Amendment right of access to the Supreme Judicial Court hearing in Boston in May 2005.

Respectfully submitted,



Fazal Raheman  
Pro Se Petitioner  
Reg No. 46236-008, FMC, Devens,  
Ayer, MA 01432

**CERTIFICATE OF SERVICE**

I, Fazal Raheman, hereby certify that I served a copy of the foregoing pleading on the respondent by depositing in the FMC Mailing System on April 8, 2005.



Fazal Raheman